

## Environmental Protection Agency

## § 85.1804

date on or after which the owner can have the nonconformity remedied.

(6) If some or all of the nonconforming vehicles or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the nonconformity, and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.

(7) Three copies of the letters of notification to be sent to vehicle or engine owners.

(8) A description of the system by which the manufacturer will assure that an adequate supply of parts will be available to perform the repair under the remedial plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, the percentage of the total parts requirement of each person who is to perform the repair under the remedial plan to be shipped to initiate the campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(9) Three copies of all necessary instructions to be sent to those persons who are to perform the repair under the remedial plan.

(10) A description of the impact of the proposed changes on fuel consumption, driveability, and safety of each class or category of vehicles or engines to be recalled and a brief summary of the data, technical studies, or engineering evaluations which support these conclusions.

(11) Any other information, reports or data which the Administrator may reasonably determine is necessary to evaluate the remedial plan.

(b)(1) Notification to vehicle or engine owners shall be made by first class mail or by such means as approved by the Administrator: *Provided*, That for good cause, the Administrator may require the use of certified mail to ensure an effective notification.

(2) The manufacture shall use all reasonable means necessary to locate vehicle or engine owners: *Provided*, That for good cause, the Administrator may

require the manufacturer to use motor vehicle registration lists as available from State or commercial sources to obtain the names and addresses of vehicle or engine owners to ensure an effective notification.

(3) The Administrator reserves the right to require the manufacturer to send by first class mail or other reasonable means subsequent notification to vehicle or engine owners: *Provided*, That for good cause, the Administrator may require the use of certified mail to ensure an effective notification.

(c)(1) The manufacturer shall require those who perform the repair under the remedial plan to affix a label to each vehicle or engine repaired or, when required, inspected under the remedial plan.

(2) The label shall be placed in such location as approved by the Administrator consistent with State law and shall be fabricated of a material suitable for the location in which it is installed and which is not readily removable intact.

(3) The label shall contain:

(i) The recall campaign number; and  
(ii) A code designating the campaign facility at which the repair, or inspection for repair was performed.

(4) The Administrator reserves the right to waive any or all of the requirements of this paragraph if he determines that they constitute an unwarranted burden to the manufacturer.

(d) The Administrator may require the manufacturer to conduct tests on components and vehicles or engines incorporating a proposed change, repair, or modification reasonably designed and necessary to demonstrate the effectiveness of the change, repair, or modification.

NOTE: An interpretive ruling regarding § 85.1803 is published in appendix A to this subpart.

[39 FR 44375, Dec. 23, 1974, as amended at 40 FR 28067, July 3, 1975; 42 FR 36456, July 15, 1977; 45 FR 36398, May 30, 1980; 48 FR 33462, July 21, 1983]

### § 85.1804 Approval of Plan: Implementation.

(a) If the Administrator finds that the remedial plan is designed and effective to correct the nonconformity, he will so notify the manufacturer in

writing. If the remedial plan is not approved, the Administrator will provide the manufacturer notice of the disapproval and the reasons for the disapproval in writing.

(b) Upon receipt of notice from the Administrator that the remedial plan has been approved, the manufacturer shall commence implementation of the approved plan. Notification of vehicle or engine owners shall be in accordance with requirements of this subpart and shall proceed as follows:

(1) When no public hearing as described in § 85.1807 is requested by the manufacturer, notification of vehicles or engine owners shall commence within 15 working days of the receipt by the manufacturer of the Administrator's approval unless otherwise specified by the Administrator.

(2) When a public hearing as described in § 85.1807 is held, unless as a result of such hearing the Administrator withdraws the determination of nonconformity, the Administrator shall, within 60 days after the completion of such hearing, order the manufacturer to provide prompt notification of such nonconformity.

**§ 85.1805 Notification to vehicle or engine owners.**

(a) The notification of vehicle or engine owners shall contain the following:

(1) The statement: "The Administrator of the U.S. Environmental Protection Agency has determined that your vehicle or engine may be emitting pollutants in excess of the Federal emission standards or family particulate emission limits, as defined in part 86. These standards or family particulate emission limits, as defined in part 86 were established to protect the public health or welfare from the dangers of air pollution."

(2) A statement that the nonconformity of any such vehicles or engines which have been, if required by the remedial plan, properly maintained and used, will be remedied at the expense of the manufacturer.

(3) A description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the remedial plan and a description of the proof to be required

of a vehicle or engine owner to demonstrate compliance with such condition. Eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle manufacturer's franchised dealers.

(4) A clear description of the components which will be affected by the remedy and a general statement of the measures to be taken to correct the nonconformity.

(5) A statement that such nonconformity if not repaired may cause the vehicle or engine to fail an emission inspection test when such tests are required under State or local law.

(6) A description of the adverse affects, if any, that an uncorrected nonconformity would have on the performance or driveability of the vehicle or engine.

(7) A description of the adverse affects, if any, that such nonconformity would have on the functions of other engine components.

(8) A description of the procedure which the vehicle or engine owner should follow to obtain correction of the nonconformity. This shall include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied.

(9) A card to be used by a vehicle or engine owner in the event the vehicle or engine to be recalled has been sold. Such card should be addressed to the manufacturer and shall provide a space in which the owner may indicate the name and address of the person to whom the vehicle or engine was sold.

(10) The statement: "In order to ensure your full protection under the emission warranty made applicable to your (vehicle or engine) by Federal law, and your right to participate in future recalls, it is recommended that you have (vehicle or engine) serviced as soon as possible. Failure to do so could legally be determined to be a lack of proper maintenance of your (vehicle or engine)."